

Service Date: January 5, 2005

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF Qwest)	UTILITY DIVISION
Corporation's Motion for a Term Protective)	
Order for Rate/Cost Comparisons)	DOCKET NO. D2004.11.183
)	
)	ORDER NO. 6629

PROTECTIVE ORDER

On January 3, 2005, Qwest Corporation (Qwest) filed a Motion for a Term Protective Order to govern certain information.

Qwest requests protection of data comprising the cost component of rate/cost comparisons filed in support of new service or promotional filings for a term of four years. In support of its motion, Qwest filed the Affidavit of Cheryl Gillespie. Qwest argues that the identified information is trade secret in accordance with § 30-14-402(4), MCA.

Qwest submitted the following factual and legal analysis in filing its protective order, in accordance with the requirements set forth in §69-3-105, MCA, §30-14-401(4), MCA and ARM 38.2.5007.

Qwest stated that it has considered that the Montana Public Service Commission is a public agency as required by ARM 38.2.5007(4)(b)(i). Qwest argued that the information satisfies ARM 38.2.5007(4)(b)(ii) through (vi) because the information is secret, it is subject to efforts to maintain its secrecy and it is not readily ascertainable by others, in that Qwest creates the information for which it seeks protection only for purposes of supporting a certain specific filing, and the information is otherwise non-existent and therefore not accessible by anyone other than certain Qwest employees. Qwest argues that the information is derived from confidential information, and therefore is confidential because it is prepared from proprietary business information to which no one but Qwest has access. The source of the data used to create the cost component of the rate/cost comparison data filed by Qwest is limited to certain Qwest employees, and the data created is used only for purposes of supporting filings for new service or promotional

offerings, and is not provided to others. Finally, Qwest argues that ARM 38.2.5007(4)(b)(vi) is satisfied because the information gives Qwest an independent economic advantage by virtue of its confidentiality because the information is based on Qwest's analysis of market conditions, product profit margins and it is used by Qwest to determine what kinds of strategies might be pursued in a certain market. Qwest argues that access to this data by Qwest's competitors would give Qwest's competitors a road map showing why Qwest competes in certain market segments, and that such information would give competitors valuable information about Qwest's strengths in certain markets and its ability to offer certain products in certain areas.

The PSC determines that Qwest has shown good and sufficient cause in fact and in law that the information for which protection is requested is entitled to protection from uncontrolled public disclosure pursuant to § 69-3-105, MCA and ARM 38.2.5007 for a period of four years from the date of this Order.

Therefore, the PSC grants the Qwest's request and hereby orders that information submitted be treated as "confidential information" under the terms of this Order and PSC protective order rules, ARM 38.2.5001 through 38.2.5030.

IT IS THEREFORE ORDERED that Qwest's motion for a term protective order is granted for a period of four years.

DONE AND DATED this 4th day of January, 2005 by a vote of 4 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GREG JERGESON, Chairman

BRAD MOLNAR, Vice Chairman

DOUG MOOD, Commissioner

ROBERT H. RANEY, Commissioner

THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: There is no reconsideration of the granting of a protective order. There is a procedure to challenge the provider's claim of confidentiality. See ARM 38.2.5008.

Montana Public Service Commission
Protective Orders and Protection of Confidential Information

Nondisclosure Agreement

(7-26-00)
ARM 38.2.5012

Docket No. D2004.11.183, Order No. 6629
Order Action Date: January 5, 2005

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive. I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

Typed or Printed Name

Signature

Date of Signature

Business Address:

Employer

Party Represented